IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 2008 of 1999

Between:

M/s. Navrang Talkies, A.C.,
Park Road, Kurnool,
Rep. By its Partner, Mr. P. Chand Basha.

..... PETITIONER

AND

1. The Joint Collector & Licensing Authority, Kurnool,
   Collector's Office, Kurnool.

2. The Government of Andhra Pradesh,
   rep. By its Secretary, Home Department,
   Secretariat Buildings, Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or Order or direction declaring that the Rule 10-A in so far as it imposes time limit for reduction of seating capacity and the Government Memo No.1730/Genl.A/94-3, dated 23-5-1995 as unconstitutional and violative of Article 19(1)(g) of the Constitution of India and consequently direct the 1st Respondent to permit reduction of seating capacity from 750 seats to 600 seats as requested by the petitioner.

For the Petitioner : MR.P.GIRISH KUMAR, Advocate

For the Respondents : GP FOR HOME

The Court Made the Following :

ORDER:

The impugned Memo No.1730/Genl.A/94-3, dated 23.05.1995 was the subject matter of challenge in "***Nataraj Theatre and Chand Talkies vs. Government of A.P., Home Department and others***"[1]. This Court after elaborately considering the submissions made by both parties, in the said case allowed the writ petition setting aside the impugned memo issued by the Government of Andhra Pradesh and the consequential orders passed by the Licensing Authority rejecting the application for reduction of the seating capacity and issued necessary directions as under:

1) The impugned Memo No.1730/Genl.A.1/94-3 dt.23.5.1995 is declared as *ultra vires,* without power or jurisdiction and the same is set aside.

2) Consequential orders passed by the Licensing Authority, if any, are vitiated as the Licensing Authority abdicated its statutory functions and acted as per the dictates of the Government, and they accordingly are set aside.

3) If the petitioner has already been accorded permission for reducing seating capacity either by the Government or by the Licensing Authority, the same shall not be rescinded. However, if the order is passed by the Government pursuant to the interim orders of this Court, a formal order by the Licensing Authority is a must to save the order of the Government from the vice of being void order.

4) The petitioner is permitted to make application to the Licensing Authority seeking reduction of seating capacity, if not already made before or during the pendency of the writ petition. Such application shall be considered in accordance with law and keeping in view the observations in this judgment. For the purpose of direction No.3 above the application made by the petitioner, if any, shall be considered.

5) If any licensee has reduced seating capacity in anticipation of sanction by the Licensing Authority, the Licensing Authority may inspect the theatre and give further directions as may be appropriate to avoid abuse or misuse of reduced seating capacity. This direction is in

accordance with the judgment of the Division Bench of this Court in W.P.No.9640/84 dated 30.10.1984.

6) The licensee shall not be entitled to enhance the rates of admission which has been already sanctioned by the Government vide G.O.Ms. No.218 dated 14.7.1995 and any further enhancement by the licensee will be in accordance with further sanction by the competent authority.

7) It is further directed that the Licensing Authority has to consider any application filed at any time seeking reduction of seating capacity subject to the provisions of Rule 10-A without any restriction as to cut off date.

Following the above judgment, the rejection order passed by the first respondent, Licensing Authority, dated 23.1.1999 is set aside and the first respondent is directed to pass necessary orders in the light of the directions as referred above.

Accordingly, the writ petition is disposed of. No order as to costs.

16th June, 2004. ASSISTANT REGISTRAR

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//TRUE COPY//

SECTION OFFICER

To

1. The Joint Collector & Licensing Authority, Kurnool,
   Collector's Office, Kurnool.

2. The Secretary, Home Department, Government of Andhra Pradesh,
   Secretariat Buildings, Andhra Pradesh, Hyderabad.

3. Two CCs to The Government Pleader for Home, High Court Buildings,
   A.P., Hyderabad. (O.U.T)

4. Two C.D copies.

[1] 1999(5) ALT 274